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Utah State Legislature

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April 24, 2009

Mr. M. Keith Prescott, Chair
Mr. David Crapo, Vice Chair
Utah Tax Review Commission
210 House Building
Utah State Capitol Complex
Salt Lake City, UT 84114

Mr. Prescott and Mr. Crapo:

As chairs of the Utah Legislature's Revenue and Taxation Interim Committee, we request that the Utah Tax Review Commission (TRC) review and make tax policy recommendations related to the following three topics this interim: (1) sales and use tax on food and food ingredients, (2) excise tax on cigarettes and other tobacco products, and (3) apportionment of business income for multi-state businesses. In addition to the specific questions listed below, please highlight any other relevant issues on these topics that you believe the Legislature should consider.

(1) Sales and use tax on food and food ingredients ("sales tax on food")

- How have recently enacted sales tax on food reductions affected General Fund revenues, both in terms of revenue amounts and revenue stability over the economic cycle?
- Because households with less income tend to spend a higher portion of their annual income on food, one argument raised in support of sales tax on food reductions relates to tax equity. If the state were to tax food at the general sales and use tax rate, what options exist to mitigate the regressivity of the sales tax on food?
- If the state were to tax food at the general sales and use tax rate and enact any of the regressivity mitigation options requested above, what offsetting reduction in the sales and use tax rate would result in a revenue-neutral proposal?
- What other tax policy considerations should the Legislature bear in mind in examining the sales tax on food?
- Would the TRC recommend that the Legislature reconsider its action to reduce the state sales tax on food?

(2) Excise Taxes on Cigarettes and Tobacco Products

- What are the advantages and disadvantages of imposing an excise tax on cigarette and tobacco products in addition to the general sales tax?
- What are the historical long-term trends for the cigarette and tobacco products tax base, tax rates, and tax revenues?
- Are cigarette and tobacco products taxes likely to be a sufficient long-term revenue source? How would a tax increase be likely to impact consumer behavior, including

actual cigarette and tobacco consumption and fugitive purchases? To what extent would consumer behavior changes from a tax increase impact tax revenues, both for the cigarette and tobacco products tax and the general sales tax?

- How are cigarette and tobacco products tax revenues currently utilized? Should some of the revenues be set aside for research, prevention, and treatment of smoking-related diseases?
- What would be the advantages and disadvantages of placing some or all of new cigarette and tobacco tax revenues into the state's Permanent State Trust Fund, with only investment earnings deposited into the General Fund?

(3) Income taxation – Apportionment of business income for multi-state businesses

- What issues should the Legislature consider related to the apportionment of business income for multi-state businesses? How do other states apportion business income?
- If the state were to move to a non-electable single sales factor apportionment formula, what are the likely impacts to taxpayers in different industry types?
- What are the estimated fiscal impacts of a non-electable single sales factor apportionment formula? Approximately what increase in business investment in the state would be required to achieve revenue neutrality?

We request that you provide your recommendations no later than the October 21, 2009 Revenue and Taxation Interim Committee meeting so that the Committee will have sufficient time to fully consider your recommendations prior to the final November interim meeting.

We appreciate your service to the state and look forward to receiving the TRC's recommendations on these important tax policy issues. Please do not hesitate to contact us with any questions.

Sincerely,

Senator Wayne L. Niederhauser
Senate Chair
Revenue and Taxation Interim Committee

Representative Todd E. Kiser
House Chair
Revenue and Taxation Interim Committee